

**Town of Milford
Zoning Board of Adjustment
June 7, 2012
Case #2012-10
Robert & Jennifer McLeod
& Raisanen Homes, Elite, LLC
Special Exception**

Present: Kevin Johnson, Chair
Laura Horning
Zach Tripp
Fletcher Seagroves

Absent: Len Harten – Alternate

Secretary Peg Ouellette

The applicants, Robert and Jennifer McLeod and Raisanen Homes, Elite, LLC, owners of 45 Cadran Crossing, Map 51, Lot 3-10, in the Residence “R” District, are requesting a Special Exception from Article V, Section 5.04.2:A.15 in accordance with Article X, Section 10.02.06 to construct an Accessory Dwelling Unit (ADU) in a new single family residence.

THE MINUTES FROM JUN 7, 2012 WERE APPROVED ON AUG 16, 2012

Kevin Johnson opened the meeting. He informed the applicants that they have the right to be heard by a full five-member Board. As there is only a four-member Board present they have the option to request the hearing to be postponed until the next regularly scheduled meeting. Three affirmative votes are required for the application to be granted. If they choose to proceed with the current four-member board, they must sign a waiver, and lack of a full board cannot be used as a basis for requesting an appeal. He then read the list of abutters. Robert and Jessica McLeod were present.

K. Johnsons read the notice of hearing into the record and asked the applicants to present their case.

J. McLeod said she had copies of the proposed ADU that may be easier to look at than the one in the packet .She didn't think anything changed, but it was better drawn out and may show more detail.

K. Johnson said it showed discontinuance of a wall and door.

J. McLeod said the wall and door would be on the new one. They are building a new home and would like to incorporate an ADU in the basement level for her parents. She read their letter addressed to the Zoning Board describing what they are trying to do.

K. Johnson asked if the Board had any questions.

Z. Tripp asked, regarding the layout of the living room, whether there was a slider to the outside.

J. McLeod said there was.

K. Johnson said the detailed drawing shows 593 ft. and the submitted drawing had 608 ft., and the application says 650 ft.

J. McLeod said the one that says 593 ft. is correct. The 608 came from the Community Development Office who calculated it to be that. The applicants did not do measurements themselves.

K. Johnson said he wanted to make sure the drawing is the exact size but make sure it is the same thing. 593 ft. is the realtor footage and 603 ft. is what the Planning Board uses. Either way it is well within the allowed. He just wanted to make sure it hadn't changed.

K. Johnson opened the meeting to public comment. No one appeared. He closed the public portion of the hearing. There were no communications in the application packet. He read comments by Bill Parker in the application. The Zoning Board does not need to worry about any of the construction; it will be taken care of as part of the construction of the dwelling.

K. Johnson asked applicants to read the application into the record.

J. McLeod read the application into the record.

K. Johnson said since this is an application for an ADU, in addition to the five criteria just read, there are additional requirements. He read through the list and the applicant indicated that they have complied. A. In all cases involving an ADU: 1. An ADU shall meet the following minimum requirements: a. only one ADU shall be allowed per a property; b. the primary dwelling unit shall be owner occupied; c. the ADU shall not exceed 700 SF total space; d. the ADU shall include no more than one bedroom; e. no additional curb cuts shall be allowed; f. attached accessory dwelling units shall have and maintain at least one common interior access between the principal dwelling structure and the accessory dwelling unit consisting of a connector a minimum of 36" in width or a doorway a minimum of 32" in width; g. an ADU shall be located in an existing or proposed single-family home or detached accessory structure; h. all criteria of the zoning district including lot sizes, frontages, yard requirements and height requirements must be met; i. an existing nonconforming residential use shall not be made more nonconforming; j. an ADU shall meet all applicable and State Building, Fire and Health Safety Code. 2. The Board of Adjustment prior to granting a Special Exception shall conduct a hearing to determine if the proposed ADU complies with the following criteria: a. the ADU must be developed in a manner which does not alter the character or appearance of the principal use as a single family residence; b. the ADU is intended to be secondary and accessory to a principal single family dwelling unit; c. the ADU shall not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other property in the neighborhood; d. adequate off-street parking must be provided; e. any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.

Z. Tripp said, regarding the doors, it looks like a standard staircase.

J. McLeod said there is one that comes from outside and one comes up to their house or into the ADU.

K. Johnson said it looks like they have another door. Also, with regard to ADU being in an existing home, it is. He said that regarding all site requirements, comment from Bill Parker said that it is under construction and the ADU is being incorporated into the structure in compliance with all requirements, so it is being taken care of. He said that the item regarding not making it more non-conforming does not apply. B. Parker already said they are meeting all applicable codes. Regarding whether the ADU is developed in a manner that does not alter the character of the premises nor impair the reasonable use of the other properties, he asked if the ADU was in the basement.

Z. Tripp asked if it is a separate level.

J. McLeod said it would have been a two-car garage, but instead they will have this ADU.

K. Johnson said the ADU shall be accessory to a principal dwelling and not impair the use and enjoyments of other properties in the neighborhood. Any exits shall be located to the side and rear of the property.

J. McLeod said the exit is in the rear. It was determined that the sliders face the rear and the garage faces the side.

K. Johnson said since they have been through the criteria several times and having just gone over the specifics for ADUs, they would now take them into consideration.

Is the Special Exception allowed by the ordinance?

F. Seagroves – yes

Z. Tripp – yes

L. Horning – yes

K. Johnson – yes

Are the specific conditions present under the special exception may be granted?

F. Seagroves – yes, although a building is not there yet.

J. McLeod said it is now; when they applied it had not been started but now it is completely framed.

Z. Tripp – yes. The applicant testified all conditions required for ADU are present. Fact that it is being designed from scratch would not have adverse affect on the neighborhood. There is plenty of parking.

L. Horning – yes. Conditions are present under which it may be granted.

K. Johnson agreed. They have covered the requirements of 10.02.6 and specific requirements for an ADU based on comments from the applicants and Bill Parker and the criteria for a Special exception. Since this is new construction they don't have to worry about appropriate location because it is being designed in.

K. Johnson then read: "After reviewing the petition and hearing all of the evidence and taking into consideration personal knowledge of the property this Board member has determined the following findings of fact":

Is the exception allowed by the ordinance?

L. Horning – yes

Z. Tripp – yes

F. Seagroves – yes

K. Johnson – yes

Are the specific conditions present under which the special exception may be granted?

Z. Tripp – yes

F. Seagroves- yes

L. Horning –yes

K. Johnson – yes

K. Johnson asked for a motion to approve.

L. Horning made a motion to approve Case # 2012-10

Z. Tripp seconded.

Final vote:

F. Seagroves – yes

Z. Tripp – yes

L. Horning – yes

K., Johnson – yes

Case # 2012-10 was unanimously approved. K. Johnson reminded applicants of the 30-day appeal period.

K. Johnson then said due to the late hour they will be tabling the next two cases to the next regularly scheduled meeting on June 21. He informed the applicants that no additional notice will be sent out.

K. Johnson requested a motion to table Case #2012-11.

Z. Tripp made a motion to table Case #2012-11.

L. Horning seconded.

All voted in favor.

K. Johnson asked for a motion to table Case # 2012-13.

L. Horning made a motion to table Case #2012-13.

Z. Tripp seconded.

All voted in favor.

Approval of Minutes:

K. Johnson asked for a motion to table approval of minutes.

L. Horning made a motion to table approval of minutes

Z. Tripp seconded.

All voted in favor.

Other Business:

There was no other business to come before the meeting.

K. Johnson adjourned the meeting at 11:25pm.